

are not in the Government's interest. Negotiation of extremely low profits, use of historical averages, or automatic application of predetermined percentages to total estimated costs do not provide proper motivation for optimum contract performance. With the exception of statutory ceilings in 15.903(d) on profit and fee, agencies shall not (1) establish administrative ceilings or (2) create administrative procedures that could be represented to contractors as de facto ceilings.

15.902 Policy.

(a) Structured approaches (see 15.905) for determining profit or fee prenegotiation objectives provide a discipline for ensuring that all relevant factors are considered. Subject to the authorities in 1.301(c), agencies making noncompetitive contract awards over \$100,000 totaling \$50 million or more a year—

(1) Shall use a structured approach for determining the profit or fee objective in those acquisitions that require cost analysis; and

(2) May prescribe specific exemptions for situations in which mandatory use of a structured approach would be clearly inappropriate.

(b) Agencies may use another agency's structured approach.

15.903 Contracting officer responsibilities.

(a) When the price negotiation is not based on cost analysis, contracting officers are not required to analyze profit.

(b) When the price negotiation is based on cost analysis, contracting officers in agencies that have a structured approach shall use it to analyze profit. When not using a structured approach, contracting officers shall comply with 15.905-1 in developing profit or fee prenegotiation objectives.

(c) Contracting officers shall use the Government prenegotiation cost objective amounts as the basis for calculating the profit or fee prenegotiation objective. Before the allowability of facilities capital cost of money, this cost was included in profits or fees. Therefore, before applying profit or fee factors, the contracting officer shall exclude any facilities capital cost of money included in the cost objective amounts. If the prospective contractor fails to identify or propose facilities capital cost of money in a proposal for a contract that will be subject to the cost principles for contracts with commercial organizations (see subpart 31.2), facilities capital cost of money will not be an allowable cost in any resulting contract (see 15.904).

(d) (1) The contracting officer shall not negotiate a price or fee that exceeds the following statutory limitations, imposed by 10 U.S.C. 2306(d) and 41 U.S.C. 254(b):

(i) For experimental, developmental, or research work performed under a cost-plus-fixed-fee contract, the fee shall not exceed 15

percent of the contract's estimated cost, excluding fee.

(ii) For architect-engineering services for public works or utilities, the contract price or the estimated cost and fee for production and delivery of designs, plans, drawings, and specifications shall not exceed 6 percent of the estimated cost of construction of the public work or utility, excluding fees.

(iii) For other cost-plus-fixed-fee contracts, the fee shall not exceed 10 percent of the contract's estimated cost, excluding fee.

(2) The limitations in subdivisions (1)(i) and (iii) above shall apply also to the maximum fees on cost-plus-incentive-fee and cost-plus-award-fee contracts. However, a deviation to the maximum-fee limitation for a specific cost-plus-incentive-fee or cost-plus-award-fee contract may be authorized in accordance with subpart 1.4.

(e) The contracting officer shall not require any prospective contractor to submit details of its profit or fee objective but shall consider them if they are submitted voluntarily.

(f) If a change or modification (1) calls for essentially the same type and mix of work as the basic contract and (2) is of relatively small dollar value compared to the total contract value, the contracting officer may use the basic contract's profit or fee rate as the prenegotiation objective for that change or modification.

[48 FR 42187, Sept. 19, 1983, as amended at 50 FR 23606, June 4, 1985]

15.904 Solicitation provision and contract clause.

(a) The contracting officer shall insert the provision at 52.215-30, Facilities Capital Cost of Money, in solicitations expected to result in contracts that are subject to the cost principles for contracts with commercial organizations (see subpart 31.2).

(b) If the prospective contractor does not propose facilities capital cost of money in its offer, insert the clause at 52.215-31, Waiver of Facilities Capital Cost of Money, in the resulting contract.

[52 FR 35613, Sept. 22, 1987]

15.905 Profit-analysis factors.

15.905-1 Common factors.

Unless it is clearly inappropriate or not applicable, each factor outlined in paragraphs (a) through (f) following shall be considered by agencies in developing their structured approaches and by contracting officers in analyzing profit whether or not using a structured approach.

(a) *Contractor effort.* This factor measures the complexity of the work and the resources required of the prospective contractor for contract performance. Greater profit opportunity should be provided under contracts